

Message Text

CONFIDENTIAL

PAGE 01 SAO PA 02258 041132Z

ACTION EB-08

INFO OCT-01 ARA-10 ISO-00 HEW-04 L-03 CIAE-00 COME-00

INR-10 LAB-04 NSAE-00 SIL-01 STR-07 TRSE-00 OMB-01

/049 W

-----093536 050631Z /15

R 032030Z AUG 78

FM AMCONSUL SAO PAULO

TO SECSTATE WASHDC 8722

INFO AMEMBASSY BRASILIA

AMCONSUL RIO DE JANEIRO

C O N F I D E N T I A L SAO PAULO 2258

E.O. 11652: GDS

TAGS: ETRD, ELAB, BR

SUBJ: INFORMATION ON LABOR STANDARDS

REF: A. STATE 136706 B. SAO PAULO A-18 C. RIO DE JANEIRO 2324

1. FOLLOWING INFORMATION IS KEYED TO QUESTIONS CONTAINED REFTEL
A CONCERNING WHETHER CERTAIN COUNTRIES' VARYING LABOR LAWS AND
STANDARDS HAVE A DISTURPTING EFFECT ON INTERNATIONAL TRADE:

A) SLAVE, INDENTURED, OR OTHER TYPES OF FORCED LABOR ARE
UNCONSTITUTIONAL IN BRAZIL AND DO NOT AFFECT PRODUCTION FOR EXPORT
OR IMPORT SUBSTITUTION.

B) CHILD LABOR DOES EXIST TO A LIMITED EXTENT BUT IS BELIEVED
SIGNIFICANT ONLY IN THE RURAL SECTOR WHERE CHILDREN CONTRIBUTE
TO THE FAMILY EFFORT IN WORKING SUBSISTENCE LEVEL FARMS. CHILD
LABOR IS NOT BELIEVED TO A FACTOR WITHIN THE TERMS OF THE INTER-
AGENCY TASK FORCE. BRAZIL'S CONSOLIDATED LABOR LAWS (DECREE-LAW
5452 OF MAY 1, 1943) CONTAIN PROVISIONS (ARTICLES 402 TO 440)
CONCERNING CHILD LABOR. SOME OF THE MAIN PROVISIONS ARE:

(1) NO CHILD UNDER 12 YEARS OF AGE MAY WORK.

CONFIDENTIAL

CONFIDENTIAL

PAGE 02 SAO PA 02258 041132Z

(2) CHILDREN BETWEEN 12 AND 14 MAY WORK ONLY UNDER THE FOLLOWING
CONDITIONS:

---THEY MUST HAVE TIME TO ATTEND ELEMENTARY SCHOOL.

---THEY CAN BE ASSIGNED ONLY LIGHT WORK WHICH IS NOT HARMFUL

TO THEIR HEALTH AND MORAL DEVELOPMENT.

---CHILDREN UNDER 18 CANNOT WORK BETWEEN THE HOURS OF 10 PM AND 5 AM.

---CHILDREN BETWEEN 12 AND 18 CANNOT ENGAGE IN UNHEALTHY, DANGEROUS, OR UNSUITABLE WORK.

(C) BRAZIL IS MAKING NOTABLE ADVANCES IN THE AREA OF OCCUPATIONAL HEALTH AND SAFETY (REF B). THE MINISTRY OF LABOR'S OFFICE DEALING WITH THESE MATTERS WAS UPGRADED FROM A DIVISION (SUB-SECRETARIAT) TO A BUREAU (SECRETARIAT) IN JUNE 1978. OVERALL TREATMENT OF OCCUPATIONAL HEALTH AND SAFETY IS CONTAINED IN THE CONSOLIDATED LABOR LAWS (ARTICLES 154 TO 223). MINISTRY OF LABOR RESOLUTION (PORTARIA) NO.10 OF NOVEMBER 11,1964 DEALS SPECIFICALLY WITH TOXIC CHEMICALS, INCLUDING THOSE MENTIONED IN PARAGRAPH (C) OF REFTTEL A. A NEW RESOLUTION (NO. 3214) HAS RECENTLY BEEN SIGNED BY THE MINISTER OF LABOR AND IS EXPECTED TO BE PROMULGATED SHORTLY. THE NEW RESOLUTION DEALS WITH 214 SUBSTANCES CONSIDERED TO BE HAZARDOUS TO HEALTH, ESTABLISHING TOLERANCE LIMITATIONS, INSPECTION BY PUBLIC AUTHORITIES, PENALTIES, AND RELATED GUIDELINES. THE ENABLING LEGISLATION FOR THIS RESOLUTION CONTAINS A PROVISION AUTHORIZING THE SECRETARY OF LABOR FOR HEALTH AND SAFETY TO ISSUE SWEEPING REGULATIONS AND DIRECTIVES ON QUESTIONS INVOLVING UNHEALTHFUL LABOR PRACTICES. IN SUMMARY, THE SUBJECT IS NOT BELIEVED A PROBLEM WITHIN THE TERMS CONFIDENTIAL

CONFIDENTIAL

PAGE 03 SAO PA 02258 041132Z

OF THE TASK FORCE STUDY.

D) BRAZILIAN LABOR LAW AND PRACTICE DO NOT APPLY DIFFERENTIAL REGULATIONS OR STANDARDS TO FREE TRADE ZONES, INDUSTRIAL EXPORT INDUSTRIES AND TARGET IMPORT SUBSTITUTION INDUSTRIES, OR TO EXPORT ORIENTED FOREIGN INVESTMENT.

REGULATIONS AND PRACTICES IN BRAZIL CONCERNING UNIONS, STRIKES AND WAGE LEVELS APPLY TO THE ENTIRE ECONOMY. (1) THE RIGHT TO STRIKE IS GUARANTEED BY THE BRAZILIAN FEDERAL CONSTITUTION (ARTICLE 165, XX) BUT UNTIL RECENTLY WAS DRASTICALLY LIMITED BY LAW 4330 OF JUNE 1,1964. A WAVE OF "SPONTANEOUS" STRIKES IN MAY AND JUNE, REPORTED SEPARATELY, AND THEIR RESOLUTION BY COLLECTIVE BARGAINING NEGOTIATIONS, HAS GIVEN RISE TO THE EXPECTATION THAT THE EXISTING STRIKE LIMITATIONS WILL BE CHANGED, AT LEAST IN PRACTICE, FOR PRIVATE, "NON-ESSENTIAL" INDUSTRIES. (2) THE CONSTITUTION ALSO PROVIDES (ARTICLE 166) THAT WORKERS MAY FREELY ORGANIZE LABOR UNIONS, BUT THIS RIGHT HAS BEEN REGULATED BY A NUMBER OF DECREES SINCE 1964. THE MINISTRY OF LABOR HAS THE AUTHORITY TO INSPECT UNION ACCOUNTS, ELECTIONS, UNION RELATIONS WITH INTERNATIONAL LABOR ORGANIZATIONS AND IN CERTAIN CIRCUMSTANCES, TO REPLACE UNION LEADERSHIPS. COLLECTIVE BARGAINING IS ONLY UNDER-

TAKEN IN EXCEPTIONAL CIRCUMSTANCES, AS NOTED ABOVE. DISPUTES
BETWEEN EMPLOYERS AND EMPLOYEES ARE NORMALLY RESOLVED BY LABOR
COURTS WHICH APPLY EXTENSIVE ANDNDETAILED LABOR LEGISLATION.
(3) MINIMUM WAGE LEVELS ARE ESTABLISHED BY THE GOVERNMENT.
REF C DISCUSSES THE PROCESS IN DETAIL.

2. EMBASSY CONCURS.
POVENMIRE

CONFIDENTIAL

NNN

Message Attributes

Automatic Decaptioning: X
Capture Date: 01 jan 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: LABOR, STANDARDS, LABOR LAW
Control Number: n/a
Copy: SINGLE
Draft Date: 03 aug 1978
Decaption Date: 01 jan 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 20 Mar 2014
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1978SAOPA02258
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: GS
Errors: N/A
Expiration:
Film Number: D780321-0315
Format: TEL
From: SAO PAULO
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1978/newtext/t197808102/aaaadhmo.tel
Line Count: 124
Litigation Code IDs:
Litigation Codes:
Litigation History:
Locator: TEXT ON-LINE, ON MICROFILM
Message ID: 030b0358-c288-dd11-92da-001cc4696bcc
Office: ACTION EB
Original Classification: CONFIDENTIAL
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: CONFIDENTIAL
Previous Handling Restrictions: n/a
Reference: 78 STATE 136706
Retention: 0
Review Action: RELEASED, APPROVED
Review Content Flags:
Review Date: 14 jul 2005
Review Event:
Review Exemptions: n/a
Review Media Identifier:
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
SAS ID: 1546441
Secure: OPEN
Status: NATIVE
Subject: INFORMATION ON LABOR STANDARDS
TAGS: ETRD, ELAB, BR
To: STATE
Type: TE
vdkgvwkey: odbc://SAS/SAS.dbo.SAS_Docs/030b0358-c288-dd11-92da-001cc4696bcc
Review Markings:
Sheryl P. Walter
Declassified/Released
US Department of State
EO Systematic Review
20 Mar 2014
Markings: Sheryl P. Walter Declassified/Released US Department of State EO Systematic Review 20 Mar 2014